

THE HONOURABLE SRI JUSTICE C.V. RAMULU

WRIT PETITION NO.10182 OF 1997

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DATED: 15-03-2007

Between:

Smt Uma Rani

.. Petitioner

and

The Depot Manager, APSRTC,
Hyderabad-II Bus Depot, Dilsukhnagar,
Hyderabad and another.

.. Respondents

THE HONOURABLE SRI JUSTICE C.V. RAMULU

WRIT PETITION NO.10182 OF 1997

ORDER:

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_____ This writ petition is filed seeking a mandamus declaring the proceedings No. P1/(24)/96-H2 dated 17.03.1997 passed by the 1st respondent, as arbitrary and illegal; and consequently to direct the 1st respondent to provide any alternative post to the petitioner such as Telephone Operator, Announcer, Clerical Post, Record Assistant or any other suitable post.

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_____ It is the case of the petitioner that since her husband died in harness while serving the A.P. State Road Transport Corporation (for short 'the APSRTC'), she requested for compassionate appointment. Her application was considered for the post of Conductor. She joined in the post of Conductor and has been working under the control of the 1st respondent. While that being so, the petitioner fell sick since 01.06.1996 and the 1st respondent was intimated about her sickness and certificates to that effect were also produced for the period from 09.06.1996 to 27.06.1996 and from 09.07.1996 to 22.07.1996, issued by the APSRTC Head Quarters Hospital, Tarnaka. The petitioner also submitted a leave application from 24.07.1996 to 31.12.1996. The medical certificates dated 23.07.1996, 23.08.1996, 22.10.1996, 20.12.1996, 18.02.1997 and 17.04.1997 were also sent to the 1st respondent under Certificate of Posting. Ignoring the said certificates, the petitioner was served with a show-cause notice of removal from service stating that an *ex parte* enquiry was conducted against her.

Thereafter, the petitioner requested for supply of record documents and she was asked to collect those documents, but all the required documents connected to the case were not supplied to her. Further, the petitioner, vide letters dated 10.06.1996 and 23.08.1996, requested the 1st respondent for providing alternative post to her disclosing the fact that it is difficult for her to perform the duties of a Conductor, as advised by Osmania Medical Authorities, she being a lady aged about 41 years, having undergone four operations, suffering from High Blood pressure, Mucus and pain abdomen, Appendicitis and Irritable Bowel Syndrome. Therefore, she requested the 1st respondent to consider her application for alternative post like Telephone Operator, Announcer, Clerk or Record Assistant, submitting that she has passed S.S.C. The application filed by her is still pending with the respondents. While that being so, on 17.03.1997, since the petitioner has not joined duty and applied for leave on various occasions in view of sickness, a show cause notice of removal from service was issued. Aggrieved by the same, the present writ petition is filed.

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A detailed counter-affidavit has been filed by the respondents denying the allegations made by the petitioner. It is asserted in the counter-affidavit that the Senior Head Clerk of Hyderabad-II Depot was appointed as Enquiry Officer to enquire into the charges leveled against the petitioner. The petitioner was issued a letter asking her to attend the enquiry on 16.01.1997. She received the same and acknowledged the receipt of it on 08.01.1997, but failed to attend the enquiry on 16.01.1997. Another letter dated 21.01.1997 was sent to her advising her to attend the enquiry on 27.01.1997, 31.01.1997, 04.02.1997 and 12.02.1997, but she neither attended the enquiry nor attended the Depot on any of those days, and thereby did not avail the opportunity given to her to defend herself. Hence, an *exparte* enquiry was conducted on 19.02.2007. This shows that she was not interested

in job. On consideration of the evidence adduced before him, the Enquiry Officer found the petitioner guilty of charges. He submitted his enquiry report to the disciplinary authority. On consideration of the enquiry report, the disciplinary authority came to the provisional conclusion that the charges were proved and hence proposed the punishment of removal from service. Accordingly, he issued the impugned show cause notice of removal from service. It is the contention of the respondents that all the documents, as required by the petitioner, were furnished and all reasonable opportunities were provided to her, but she failed to avail the same. She has to blame herself for the same. The domestic enquiry conducted is perfectly valid and legal. In fact, no writ lies against a show cause notice. If the show cause notice is not valid and if the petitioner is not guilty of the charges, the petitioner is at liberty to submit her explanation to the charge sheet showing how the charge sheet is invalid. Therefore, the writ petition cannot be entertained and liable to be dismissed.

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This Court, while admitting the writ petition on 02.05.1997, granted stay of all further proceedings in pursuance of the impugned show cause notice.

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Neither the petitioner nor the respondents are in a position to bring to the notice of the Court the present status of the petitioner. As stated above, the show cause notice, issued on 17.03.1997, was stayed by this Court. Of course, no writ lies against a show cause notice, unless some substantial grounds like jurisdiction, malafides etc. were attributed. No such grounds are made out in this writ petition. Therefore, the writ petition is liable to be dismissed.

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Accordingly, the writ petition is dismissed. No costs.

However, if the petitioner is continuing in the Corporation, she

shall be continued as such and the authorities may take appropriate
action as per law in pursuance to the impugned show cause notice,
after issuing a fresh notice and receiving explanation from the
petitioner.

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C.V. RAMULU, J

15th March, 2007.
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